

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KURT BENSHOOF,

Plaintiff,

v.

MOSHE ADMON, DANIEL  
AUDERER, JUSTIN BOOKER, FREYA  
BRIER, CITY OF SEATTLE, NATHAN  
CLIBER, ZACHARY COOK,  
BENJAMIN COOMER, ANITA  
CRAWFORD-WILLIS, JENNY  
DURKAN, JAMES ERVIN, DAVID  
ESTUDILLO, MARSHALL  
FERGUSON, MICHAEL FOX, COREY  
FOY, AMY FRANKLIN-BIHARY,  
WILLIAM GATES, III, STEVEN  
GONZALEZ, TYLER GOSLIN, WILLIE  
GREGORY, OWEN HERMSEN, JAY  
INSLEE, DAVID KEENAN, GABRIEL  
LADD, DANIEL LENTZ, MAGALIE  
LERMAN, MARY LYNCH, SARAH  
MACDONALD, ANTHONY  
MARINELLA, RICARDO MARTINEZ,  
BRADLEY MOORE, KATRINA  
OUTLAND, JESSICA OWEN, PCC  
NATURAL MARKETS, KYLE  
REKOFKE, STEVEN ROSEN, BLAIR  
RUSS, UMAIR SHAH, SPROUTS  
FARMERS MARKET, MICHAEL  
THURSTON, JARED WALLACE, and  
SANDRA WIDLAN,

CASE NO. 2:23-cv-1392

ORDER DENYING PLAINTIFF'S  
MOTION FOR RECUSAL AND  
TRANSFER OF VENUE

Defendants.

## 1. INTRODUCTION

Plaintiff Kurt Benshoof requests that this Court recuse itself from this matter, citing 28 U.S.C. § 455(a)(b)(1). Dkt. No. 39 at 1. Because the Court’s impartiality cannot be reasonably questioned, the Court DENIES Benshoof’s motion to voluntarily recuse, and REFERS the matter to United States District Judge Tana Lin for review under Local Civil Rule 3(f).

## 2. BACKGROUND

Benshoof argues for “disqualification” based on “mental incompetence” and “biases or prejudices against [his] free exercise of his religious beliefs[.]” Dkt. No. 39 at 4-5. Benshoof argues the Court demonstrated incompetence and bias when it denied his motion for a preliminary injunction and “knowingly and willfully disregarded the clear holding of *Hamm v. City of Rock Hill*, 379 U.S. 306 (1964)[.]” *Id.* at 2, 4. Benshoof moves for “immediate disqualification” and “if there is no judge within the U.S. District Court for the Western District of Washington who is not infected with the woke mind virus,” he requests that his case be transferred to the U.S. District Court for the Eastern District of Washington. *Id.* at 5.

## 3. DISCUSSION

### 3.1 The Court denies Benshoof’s motion for recusal.

If a party moves to recuse under 28 U.S.C. § 144 or 28 U.S.C. § 455, “the challenged judge will review the motion papers and decide whether to recuse voluntarily.” LCR 3(f). A federal judge must disqualify themselves in any proceeding

1 in which their “impartiality might reasonably be questioned.” 28 U.S.C. § 455(a).  
2 Further, recusal is required when a party files a “timely and sufficient affidavit that  
3 the judge before whom the matter is pending has a personal bias or prejudice either  
4 against [them] or in favor of any adverse party.” 28 U.S.C. § 144. The standard for  
5 recusal under both statutes is the same— “[w]hether a reasonable person with  
6 knowledge of all the facts would conclude that the judge’s impartiality might  
7 reasonably be questioned.” *United States v. McTiernan*, 695 F.3d 882, 891 (9th Cir.  
8 2012) (internal quotation marks omitted). “[A] judge’s prior adverse ruling is not  
9 sufficient cause for recusal.” *United States v. Studley*, 783 F.2d 934, 939 (9th Cir.  
10 1986); *see also Liteky v. United States*, 510 U.S. 540, 555 (1994) (“[J]udicial rulings  
11 alone almost never constitute a valid basis for a bias or partiality motion.”).

12 “If the challenged judge decides not to voluntarily recuse, [they] will direct  
13 the clerk to refer the motion to the chief judge, or the chief judge’s designee.” LCR  
14 3(f). “If the motion is directed at the chief judge, or if the chief judge or the chief  
15 judge’s designee is unavailable, the clerk shall refer it to the active judge with the  
16 highest seniority.” *Id.*

17 Here, Benshoof is dissatisfied with the Court’s Order denying his motions for  
18 preliminary injunction and granting leave to amend his complaint. *See* Dkt. No. 38.  
19 But Benshoof merely offers conclusory statements and fails otherwise to show  
20 actual grounds for incompetence or personal bias. The Court finds no basis for  
21 recusal as no reasonable person could question this Court’s impartiality. Thus, the  
22 undersigned will not recuse himself voluntarily from this case.

1 Ordinarily, the Court would refer this matter to the chief judge, but Chief  
2 Judge David G. Estudillo is Defendant in this matter. Accordingly, the Court refers  
3 this matter to the active judge with the highest seniority, United States District  
4 Judge Tana Lin.

5 **3.2 The Court denies Benshoof's motion to transfer.**

6 Generally, there are two distinct grounds for changing venue. Courts may  
7 transfer a case if the plaintiff filed it in an improper venue. 28 U.S.C. § 1406(a).  
8 Alternatively, transfer may occur in the interest of justice where the chosen venue  
9 is inconvenient to the parties and witnesses. 28 U.S.C. § 1404(a). “[T]he transferee  
10 court must be a proper venue and must have personal jurisdiction over the  
11 defendant.” 15 Charles Alan Wright & Arthur R. Miller, Fed. Prac. & Proc. § 3845  
12 (4th ed. 2023). *See also* 28 U.S.C. § 1404(a) (permitting transfer of an action to  
13 another district “where it might have been brought.”); 28 U.S.C. § 1406(a)  
14 (permitting transfer to any district “in which it could have been brought.”).

15 Benshoof does not object to the Western District of Washington as an  
16 improper venue nor does he claim it inconveniences the parties. Instead, he appears  
17 to express dissatisfaction with the venue based on perceived bias—specifically,  
18 rejecting any judge who has been “infected with the woke mind virus[.]” Dkt. No. 39  
19 at 5. Moreover, Benshoof does not show the Eastern District of Washington would  
20 be a proper venue for this action. Therefore, the Court DENIES Benshoof's request  
21 to transfer.

**4. CONCLUSION**

Accordingly, the undersigned DECLINES to recuse voluntarily. Benshoof's motion to recuse, Dkt. No. 39, is REFERRED to United States District Judge Tana Lin for decision. The Court also DENIES Benshoof's motion to transfer venue.

Dated this 3rd day of November, 2023.



---

Jamal N. Whitehead  
United States District Judge